



February 22, 2008

ENGROSSED SENATE BILL No. 247

DIGEST OF SB 247 (Updated February 20, 2008 7:43 pm - DI 77)

Citations Affected: IC 25-26.

Synopsis: Home medical equipment and pharmacies. Requires a nonresident pharmacy that dispenses more than 25% of the pharmacy's total prescription volume through the Internet to have certain accreditations and display the accreditation in advertisements. Allows the board of pharmacy to take certain action against the nonresident pharmacy for not being accredited or for failing to display the accreditation. Removes specified home medical equipment from the definition of "home medical equipment" and redefines the term as equipment that is prescribed by a health care provider and either: (1) sustains, restores, or supplants a vital bodily function; or (2) is technologically sophisticated and requires individualized adjustment or maintenance. Defines "home medical services" to require both the: (1) sale, rental, delivery, or installation of home medical equipment; and (2) installation, maintenance, and instruction in the use of the equipment.

Effective: July 1, 2008; January 1, 2009.

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(HOUSE SPONSORS — BROWN C, BROWN T)

January 10, 2008, read first time and referred to Committee on Health and Provider Services.

January 24, 2008, amended, reported favorably — Do Pass.

January 28, 2008, read second time, ordered engrossed. Engrossed.

January 29, 2008, read third time, passed. Yeas 48, nays 0.

HOUSE ACTION

February 11, 2008, read first time and referred to Committee on Public Health.

February 21, 2008, amended, reported — Do Pass.

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February 22, 2008

Second Regular Session 115th General Assembly (2008)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2007 Regular Session of the General Assembly.

ENGROSSED SENATE BILL No. 247

A BILL FOR AN ACT to amend the Indiana Code concerning professions and occupations.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 25-26-17-4.5 IS ADDED TO THE INDIANA
2 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
3 [EFFECTIVE JANUARY 1, 2009]: **Sec. 4.5. A nonresident**
4 **pharmacy that dispenses more than twenty-five percent (25%) of**
5 **the pharmacy's total prescription volume as a result of an original**
6 **prescription order received or solicited through the Internet:**

7 (1) **must be accredited:**

8 (A) **through the National Association of Boards of**
9 **Pharmacy's Verified Internet Pharmacy Practice Sites**
10 **(VIPPS); or**

11 (B) **under a program that is substantially similar to the**
12 **program under clause (A) and that has been approved by**
13 **the board; and**

14 (2) **shall obtain and display a seal of approval for:**

15 (A) **the National Association of Boards of Pharmacy; or**

16 (B) **the substantially similar program described in**
17 **subdivision (1)(B);**

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anywhere that the nonresident pharmacy advertises.

SECTION 2. IC 25-26-17-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 5. The board may deny, revoke, or suspend the registration of a nonresident pharmacy for:

(1) failing to comply with sections 3, 4, **4.5**, and 6 of this chapter; or

(2) conduct that causes serious bodily or psychological harm to a customer who lives in Indiana or purchased drugs from the nonresident pharmacy while in Indiana, if the board reports the matter to the pharmacy regulatory or licensing agency in the state in which the nonresident pharmacy is located.

SECTION 3. IC 25-26-21-2, AS ADDED BY P.L.122-2005, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. (a) As used in this chapter, "home medical equipment" means ~~technologically sophisticated medical devices that may be used in a residence; including the following:~~

(1) Oxygen and oxygen delivery systems:

(2) Ventilators:

(3) Respiratory disease management devices:

(4) Continuous positive airway pressure (CPAP) devices:

(5) Electronic and computerized wheelchairs and seating systems:

(6) Apnea monitors:

(7) Transcutaneous electrical nerve stimulator (TENS) units:

(8) Low air loss cutaneous pressure management devices:

(9) Sequential compression devices:

(10) Feeding pumps:

(11) Home phototherapy devices:

(12) Infusion delivery devices:

(13) Distribution of medical gases to end users for human consumption:

(14) Hospital beds:

(15) Nebulizers:

(16) Other similar equipment determined by the board in rules adopted under section 7 of this chapter: **equipment that:**

(1) is prescribed by a health care provider;

(2) sustains, restores, or supplants a vital bodily function; and

(3) is technologically sophisticated and requires individualized adjustment or regular maintenance.

(b) The term does not include the following:

(1) Walkers.

(2) Ambulatory aids.

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1 **(3) Commodities.**

2 **(4) Any other home medical equipment determined by the**
 3 **board in rules adopted under section 7 of this chapter.**

4 SECTION 4. IC 25-26-21-3, AS ADDED BY P.L.122-2005,
 5 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 6 JULY 1, 2008]: Sec. 3. As used in this chapter, "home medical
 7 equipment services" means the:

8 (1) sale, **rental, delivery, or installation; and**

9 ~~(2) rental;~~

10 ~~(3) delivery;~~

11 ~~(4) installation;~~

12 **(5) (2) installation, maintenance, or replacement, or and**
 13 **instruction in the use;**

14 ~~(6) instruction in the use;~~

15 of medical equipment used by an individual that allows the individual
 16 to reside in a noninstitutional environment.

17 SECTION 5. IC 25-26-21-7, AS ADDED BY P.L.122-2005,
 18 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 19 JULY 1, 2008]: Sec. 7. (a) The board may adopt rules under IC 4-22-2
 20 to do the following:

21 (1) Specify home medical equipment ~~in addition to the home~~
 22 ~~medical equipment set forth in section 2 of this chapter~~ that is **or**
 23 **is not** to be regulated under this chapter.

24 (2) Set standards for the licensure of providers.

25 (3) Govern the safety and quality of home medical equipment
 26 services that are provided to customers.

27 (4) Specify the amount of insurance coverage required under
 28 section 6(b)(3) of this chapter.

29 (5) Set reasonable fees for the application, issuance, and renewal
 30 of a license under this chapter and set other fees permitted under
 31 IC 25-1-8.

32 (b) The board may consult with individuals engaged in the home
 33 medical equipment services business to advise the board on the
 34 formulation of rules under subsection (a). The individuals may not be
 35 compensated or reimbursed for mileage by the board.

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COMMITTEE REPORT

Madam President: The Senate Committee on Health and Provider Services, to which was referred Senate Bill No. 247, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, between lines 14 and 15, begin a new line block indented and insert:

"(4) Any other home medical equipment determined by the board in rules adopted under section 7 of this chapter."

Page 2, line 33, after "is" insert "**or is not**".

and when so amended that said bill do pass.

(Reference is to SB 247 as introduced.)

MILLER, Chairperson

Committee Vote: Yeas 11, Nays 0.

COMMITTEE REPORT

Mr. Speaker: Your Committee on Public Health, to which was referred Senate Bill 247, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 25-26-17-4.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JANUARY 1, 2009]: **Sec. 4.5. A nonresident pharmacy that dispenses more than twenty-five percent (25%) of the pharmacy's total prescription volume as a result of an original prescription order received or solicited through the Internet:**

(1) must be accredited:

(A) through the National Association of Boards of Pharmacy's Verified Internet Pharmacy Practice Sites (VIPPS); or

(B) under a program that is substantially similar to the program under clause (A) and that has been approved by the board; and

(2) shall obtain and display a seal of approval for:

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**(A) the National Association of Boards of Pharmacy; or
(B) the substantially similar program described in
subdivision (1)(B);**

anywhere that the nonresident pharmacy advertises.

SECTION 2. IC 25-26-17-5 IS AMENDED TO READ AS
FOLLOWS [EFFECTIVE JANUARY 1, 2009]: Sec. 5. The board may
deny, revoke, or suspend the registration of a nonresident pharmacy
for:

- (1) failing to comply with sections 3, 4, **4.5**, and 6 of this chapter;
or
- (2) conduct that causes serious bodily or psychological harm to a
customer who lives in Indiana or purchased drugs from the
nonresident pharmacy while in Indiana, if the board reports the
matter to the pharmacy regulatory or licensing agency in the state
in which the nonresident pharmacy is located."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 247 as printed January 25, 2008.)

BROWN C, Chair

Committee Vote: yeas 9, nays 0.

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